

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NOS. 96-235-W/S AND 96-259-W/S - ORDER NO. 96-694

OCTOBER 7, 1996

IN RE:	Application of Carolina Water Service, Inc. for Approval of a Transfer of the I-20 and Lake Murray Systems to the Town of Lexington, South Carolina.)	ORDER RULING
)	ON MOTIONS
)	TO DISMISS,
)	TO CONTINUE
)	HEARING, AND
AND	Complaint/Petition for Rate Reduction and for Decertification filed by Concerned Citizens Against Carolina Water, Inc.)	TO BALLOT
)	CUSTOMERS
)	

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of various Motions filed in the above referenced Dockets concerning Carolina Water Service, Inc. ("CWS"). The Motions were filed by the Consumer Advocate for the State of South Carolina ("the Consumer Advocate") and by Concerned Citizens Against Carolina Water, Inc. ("CCACW").

First, in Docket 96-235-W/S concerning the transfer of the CWS water and sewer facilities of the I-20 and Lake Murray systems to the Town of Lexington, the Consumer Advocate filed Motions requesting (1) that the Commission ballot the customers on the I-20 and Lake Murray systems to determine their opinion regarding the proposed transfer and (2) that the Commission dismiss the Application of CWS or in the alternative that the Commission postpone the hearing in this case and issue an Order enjoining the Town of Lexington as a party of record to this proceeding. In Docket 96-235-W/S, CCACW filed Motions (1) for a continuance of

the hearing scheduled in this Docket, (2) for an extension of time in which to file motions, and (3) for a continuance based on a scheduling conflict which counsel for CCACW has with the United States District Court. CCACW also filed a Motion in which (a) CCACW joined the Consumer Advocate's Motion for Dismissal of the Application or in the alternative for rescheduling of the matter and (b) in which CCACW joined the Consumer Advocate's Motion to Ballot the customers in the areas affected by CWS's Application.

MOTION TO BALLOT CUSTOMERS

The Consumer Advocate, later joined by CCACW, moved the Commission to instruct the Commission Staff ("Staff") to develop and mail a ballot to the customers in the I-20 and Lake Murray systems to determine the wishes of the customers regarding the proposed transfer. Upon consideration of this Motion, the Commission is of the opinion and so finds that the Motion to Ballot the customers should be granted. While the Commission is interested in the opinions of the customers who would be affected by the proposed transfer and grants the Motion to Ballot, the Commission makes clear that the results of any balloting are for informational purposes only and the results of the balloting will not be binding on the Commission.

MOTIONS FOR CONTINUANCE

CCACW filed a Motion for a Continuance based on the attorney for CCACW having a scheduling conflict for the date of the hearing and an appearance in United States District Court. Based on Rule 601(b) and 601(c), SCAR, the Commission believes that the priorities for appearances set forth therein require the

Commission to grant the relief requested by counsel for CCACW. Therefore, the Commission grants CCACW's Motion for Continuance based on the scheduling conflict of its attorney.

As the Commission grants the Motion for Continuance due to the scheduling conflict of CCACW's attorney, the Commission believes that its ruling renders CCACW's other Motion for Continuance (based upon counsel's recent involvement in the case) moot. The Commission therefore will not address CCACW's other Motion for Continuance.

MOTION TO DISMISS APPLICATION OR IN THE ALTERNATIVE POSTPONE
HEARING AND ENJOIN THE TOWN OF LEXINGTON AS A PARTY OF RECORD

The Consumer Advocate, later joined by CCACW, moved that the Commission dismiss the Application or in the alternative to postpone the hearing in this matter and enjoin the Town of Lexington as a party of record. The Consumer Advocate asserts that the Application is deficient on the grounds that certain exhibits to the agreements filed with the Commission are missing from the Application. The Consumer Advocate asserts that without the exhibits he is unable to fully analyze CWS's request and is unable to conduct complete discovery.

The Commission denies the Consumer Advocate's Motion to Dismiss the Application. By this Order, the Commission has granted a Motion which has continued the hearing in this matter. The Consumer Advocate may utilize the time granted by the continuance to conduct additional discovery if the Consumer Advocate desires.

For now, the Commission will hold that part of the Consumer

Advocate's Motion which requests the Commission to enjoin the Town of Lexington as a party of record in abeyance.

MOTION TO EXTEND TIME TO FILE MOTIONS

CCACW filed a Motion to Extend Time to File Motions. 26 S.C. Code Ann. Regs. 103-840 requires certain motions be reduced to writing and filed with the Executive Director of the Commission at least ten (10) days prior to the commencement of a hearing. CCACW filed a Motion to Extend Time to File Motions so that CCACW would be allowed to file motions up to five (5) days prior to the hearing. As the Commission granted CCACW's Motion for Continuance, the time in which CCACW has to file motions has been extended. By virtue of the continuance in the hearing, CCACW will have additional time in which to file motions prior to the hearing. Therefore, the Commission denies this Motion to Extend Time to File Motions.

MOTION TO STRIKE PREFILED TESTIMONY

In Docket No. 96-259-W/S (the Complaint/Petition for Rate Reduction and Decertification filed by CCACW), CWS filed a Motion to Strike Prefiled Testimony. By its Motion, CWS asserts that CCACW has failed to comply with the Commission's requirements for prefiling of testimony. CWS states that Commission Order No. 96-575 directed CCACW to prefile and serve its direct testimony and exhibits on or before September 5, 1996. CWS further states that on the date ordered for its submission of CCACW's direct testimony and exhibits that CCACW sought to avoid the prefiling of its testimony and exhibits by filing a Motion for Waiver of Prefiling Requirements. By Commission Order No. 96-629, the

Commission denied CCACW's Motion for Waiver of Prefiling Requirements and directed CCACW to prefile its testimony and exhibits on or before September 12, 1996. In response to Commission Order No. 96-629, CCACW filed two documents entitled "Summary of Testimony of Brenda Bryant" and "Summaries of Witness Testimony."

CWS asserts that the "purported 'testimony'" contains unsubstantiated allegations which are generic in nature and which prevent CWS from providing a knowledgeable, thorough response. CWS states that CCACW is obligated to provide the evidence to support its Complaint.

CCACW does not have an attorney of record listed in Docket No. 96-259-W/S, and the Commission believes that the testimony of CCACW was filed by a lay-person. Therefore, the Commission is not of a mind to strike the testimony filed by CCACW. The Commission therefore denies the Motion to Strike the testimony. However, the Commission will allow CWS to conduct additional discovery in this Docket, and as discussed below, CWS will have additional time in which to conduct additional discovery in this matter should CWS deem additional information is needed.

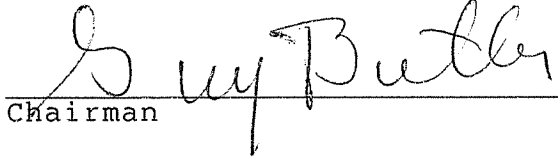
Previously, the Commission issued Commission Order No. 96-575 (August 22, 1996) in which the Commission directed that the hearing on CCACW's Complaint/Petition for Rate Reduction and for Decertification be scheduled immediately prior to the hearing on the proposed transfer of the I-20 and Lake Murray systems to the Town of Lexington. In Order No. 96-575, the Commission recognized that the Complaint of CCACW and the proposed transfer are

interrelated. The Commission continues to believe that the two Dockets are interrelated and therefore the Commission orders that the hearing on the Complaint of CCACW (Docket No. 96-259-W/S) be continued so that the hearing on the Complaint will immediately precede the hearing on the proposed transfer (Docket No. 96-235-W/S) as ordered in Commission Order No. 96-575.

IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate's Motion to Ballot, joined in by CCACW, is granted, and Staff is instructed to conduct the balloting of the customers affected by the proposed transfer. However, the Commission advises all parties that the results of the balloting are for informational purposes only and that the results of the balloting will not be binding on the Commission.
2. CCACW's Motion for a Continuance of the hearing in Docket No. 96-235-W/S which was based on counsel's scheduling conflict with United States District Court is granted.
3. The Consumer Advocate's Motion to Enjoin the Town of Lexington as a party of record is held in abeyance.
4. CCACW's Motion to Extend Time to File Motions is denied.
5. CWS's Motion to Strike the prefiled testimony of CCACW in Docket No. 96-259-W/S is denied.
6. The Hearing in Docket No. 96-259-W/S is continued and will be scheduled prior to the hearing in Docket No. 96-235-W/S as directed by Commission Order No. 96-575 (August 22, 1996).
7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)